

**CITY OF NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 100 Civic Center Drive**  
**Thursday, November 7, 2013**  
**REGULAR MEETING**  
**6:30 p.m.**

**I. CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

**II. PLEDGE OF ALLEGIANCE** – Secretary Kramer

**III. ROLL CALL**

PRESENT: Ameri (arrived at 6:35 p.m.), Hillgren, Kramer, Lawler, and Tucker

ABSENT

EXCUSED: Brown and Myers

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Patrick Alford, Planning Manager; Jim Campbell, Principal Planner; Jaime Murillo, Associate Planner; and Marlene Burns, Administrative Assistant

**IV. PUBLIC COMMENTS**

Chair Hillgren invited those interested in addressing the Planning Commission to do so at this time. There was no response and Chair Hillgren closed public comments.

**V. REQUEST FOR CONTINUANCES** - None

**VI. CONSENT ITEMS**

**ITEM NO. 1 MINUTES OF OCTOBER 17, 2013**

**Recommended Action:** Approve and file

Chair Hillgren opened public comments. Seeing none, Chair Hillgren closed public comments.

Chair Hillgren noted that comments were received with corrections to the subject minutes.

**Motion** made by Commissioner Lawler and seconded by Vice Chair Tucker and carried (3 – 1) with Secretary Kramer abstaining to approve the minutes of October 17, 2013, as corrected.

AYES: Hillgren, Lawler and, Tucker

NOES: None

ABSTENTIONS: Kramer

ABSENT: Ameri, Brown, and Myers

**VII. STUDY SESSION**

**ITEM NO. 2 BACK BAY LANDING PCDP AND EIR (PA2011-216)**

**Site Location:** 300 E. Coast Highway

Chair Hillgren addressed the purpose for this item and noted that the Study Session is being conducted in advance of the Public Hearing for this item which will be scheduled in the near future.

Commissioner Ameri arrived at this juncture (6:35 p.m.).

Senior Planner Jaime Murillo provided a PowerPoint presentation addressing the intent of the present Study Session and noted that the current status of the property does not allow for residential development. He addressed the stages in the Development Application process, approvals required, and the Draft Environmental Impact Report (EIR). He provided an overview of the proposed project location, existing conditions and uses, project boundaries, surrounding properties, proposed lot line adjustment, required amendments to the General Plan, Coastal Land Use Plan, and Zoning map. He also provided an overview of the Planned Community Development Plan that was prepared for the project and the development standards and design guidelines contained within it, and steps for implementation.

Senior Planner Murillo presented illustrations from the Planned Community Development Plan and addressed the conceptual site plan and major elements of the same, retail and restaurant uses, proposed parking structure, boat storage, location of residential units, building height limitations, architectural theme, public access, proposed bicycle trail, public launching area for small-vessel launching, public restrooms and lockers, bulkhead standards, street and utility improvements, and project egress and ingress. In addition, he presented details of the EIR and noted that the potential impacts associated with development of the project have been analyzed. He added that the document is currently out for a forty-five (45) day public review period which will conclude on November 18, 2013, and responses to the comments received will be provided to the Planning Commission in the December 19, 2013, agenda packet.

Senior Planner Murillo addressed the scope of the EIR and noted the analysis of project alternatives. In terms of traffic, he reported that staff assumed a maximum development scenario to develop the traffic study. He also informed the Commission that staff will be providing a presentation to the Harbor Commission and will be asking for their comments regarding the project.

In response to an inquiry from Chair Hillgren, Senior Planner Murillo reported that notice was provided to properties beyond the required three hundred (300) foot radius to include Linda Isle residents, mobile home residents, Bay Shore residents, and adjacent/nearby Home Owner Associations.

Discussion followed regarding protected views, building heights established for the site and the use of established grades in measure building heights, clarification of vertical access to the shoreline and optional Coast Highway vehicular access. Regarding the latter, Senior Planner Murillo reported that it would involve the coordination of several agencies, including Caltrans and the City. He added that it is included as an option that has been analyzed in terms of potential impacts within the EIR. Recommendations will be provided by staff and the future development phase.

Deputy Community Development Director Brenda Wisneski added that the access was included as an option in the Development Plan.

City Traffic Engineer Tony Brine noted that ultimately, Caltrans will review the matter since it is a State facility.

In response to Secretary Kramer's inquiry, Senior Planner Murillo addressed the proposed architectural style. Secretary Kramer asked regarding the applicant and other involved entities and Mr. Murillo deferred to the applicant's representative for a response.

John Erskine, representing the applicant, reported that his law firm represents Terra Vista Management and the Gelfand Family and added that the mobile home and their project site is part of the three parcel map (Parcel Map 93-111). He addressed additional noticing efforts performed by his firm. He reported that the project, thus far, has taken three and a-half years (3½) and commented on prior meetings with Coastal Commission staff and the community. In terms of the existing three (3) mobile homes that would need to be demolished to accommodate the lot line adjustment, he reported that they were purchased. He addressed the proposed architectural style. He also commented positively on City staff and their efforts and that the project will be developed after consideration by the Coastal Commission.

Discussion followed regarding the possibility of providing additional public access relative to the mobile home site.

Mr. Erskine addressed challenges related to additional public access along the mobile home frontage and impacts to private residences. He added that the requirement is to provide bay front access along the development project site. Access alternatives are addressed in the EIR and it was noted that staff considered the matter, as well, in terms of consistency with the City's policies.

Ensuing discussion pertained to the proposed tower and accessibility to same, including installation of an elevator. Mr. Erskine added that it will provide opportunities for new coastal views. He noted positive reactions to the tower from Coastal staff. Additionally, he addressed the types of proposed residential units and how they will interact with the local area and surrounding neighborhood. He noted that Pearson's Point would remain.

Mr. Erskine reported that the present approvals being sought are legislative and that the exact details of the functionality and programming of residential units will be presented with the project but the units will be built to condominium standards and will be high-end. In addition, he addressed the existing sanitation pump station. He added there have been three (3) or four (4) meetings with the Orange County Sanitation District and that they are considering coordinating an upgrade to the facility and moving the sanitation facility to the west which will create a better front to the project.

Senior Planner Murillo added that the PC Development Plan encourages the applicant to work with the Sanitation District to have the facility fit in with the architectural design of the overall development.

Mr. Erskine reported that the plans are not yet at the specific-project level and that there are still negotiations that must be made. He stated that additional information will be provided during the Public Hearing.

Discussion followed regarding traffic at the intersection of Coast Highway and Bayside Drive.

City Traffic Engineer Brine reported that staff has worked with the applicant and primarily wanted to move the driveway further north, away from Coast Highway noting the need to provide sufficient queue in order to avoid a backup of traffic on Coast Highway. He added that staff did a queue analysis and a computer model simulation to ensure that this was not going to occur.

Commissioner Lawler commented on the possibility that the applicant would want to build in two (2) phases.

Senior Planner Murillo reported that staff confirmed with the applicant that the project would be built in one (1) phase of development.

Discussion followed regarding parking, minimum parking ratios for the various uses on site, the possibility of shared parking, and the total size of the project area.

Mr. Erskine added that the project area is just shy of seven (7) acres. In response to Secretary Kramer's inquiry, Mr. Erskine addressed the proposed dry-stacked boat storage facility and its operation. He added that dry-stacked storage is encouraged under Coastal Act policies.

Vice Chair Tucker commented on possible changes between the conceptual and actual plans.

Mr. Erskine noted that the project must comply with design guidelines and development standards and that it is anticipated that there will be additional environmental review. He added that discussions have occurred regarding the possibility of some parcelization for the residential area and stated that the project will be built in one (1) phase. He listed other similar projects by the applicant.

Vice Chair Tucker noted the need to plan for the future and planning for the various types of uses. He added that the PC Development Plan needs to contemplate the various possibilities for the site and noted the importance of having a uniform maintenance process while maintaining flexibility. He requested a copy of the PC Development Plan in MS-DOC binary file format (Microsoft WORD) in order to comment on it. He expressed concerns regarding the amount of commercial space and wondered if it will all lease. He stated that some has been designated as visitor-serving retail and others as other retail. He suggested broadening opportunities for retail uses. He noted that nightclub-use has been listed as one of the permitted uses and did not feel that it fits with residential uses.

It was noted the Pearson's Point is owned by a private individual and that they have expressed a desire to remain at their current location.

Vice Chair Tucker referenced the parking requirements relative to entertainment and excursion services and wondered if that is appropriate for the site.

Discussion followed regarding an easement for public access to be provided to the City. It was noted that it will be privately maintained.

Vice Chair Tucker commented on the use of high-quality materials and noted the need to keep control of the design criteria. He addressed design details on the walls, replacement of existing garages used as storage, the boat launching and haul out area, vehicular circulation, and the proposed bicycle lane on Bayside Drive.

Chair Hillgren opened public comments.

Dorothy Kraus asked if the presentation will be placed on the City's website and staff confirmed that it will be.

Bill O'Connor, a Linda Isle resident, expressed concerns that the stackable boat storage will be used by fast boats with no mufflers and noted that December 19, 2013, will be the second night of the Boat Parade and that it will be difficult for residents to attend the Planning Commission meeting. He added that there are many people who would like to attend the meeting.

Chair Hillgren closed public comments.

Vice Chair Tucker commented on the possibility of moving the meeting of December 19, 2013, to earlier in the afternoon.

Mr. Erkston indicated acceptance of having the meeting earlier in the day and hoped that the matter would be resolved before the Christmas Holiday.

## **VIII. NEW BUSINESS**

### **ITEM NO. 3 LCP IMPLEMENTATION PLAN (PA2013-001) Site Location: City-wide**

Planning Manager Patrick Alford provided a PowerPoint presentation addressing background, composition of the Coastal Commission, an overview of the Coastal Act and the requirement for all cities and counties within the Coastal Zone to produce a Local Coastal Program. He addressed Coastal Commission administration and staff, areas included in the Coastal Zone, developments in the Coastal Zone, requirements for Coastal Development permits, approvals in concept issued by the City, exemptions of the Coastal Act, restrictions and the intent to have permit authority return to the City for specific areas in the City. Additionally, he commented on deferred certification areas.

Planning Manager Alford addressed the LCP Implementation Plan and noted it, together with the Coastal Land Use Plan is similar to the City's General Plan and Zoning Code relationship. He reported that the LCP Implementation Plan will be a stand-alone document and will be a pared down version of the Zoning Code, only dealing with those areas within the Coastal Zone and only on standards that will implement policies in the Coastal Land Use Plan. He addressed organization of the document, described the various sections of the document and the inclusion of relevant portions of the City's Planned Community texts. He addressed adjustments to boundaries and presented examples of same to avoid bisection of properties and the possibility of excluding the commercial strip of the south of Coast Highway in Corona del Mar. He reported that the Coastal Commission wants standards to relate to the City's Coastal Land Use Plan policies and addressed issues with coastal canyons and bluff areas. He addressed the timeline and noted that the Coastal Commission wants to work closely with the City in developing standards before a formal submittal is made. Therefore, given the workload and complexity of issues it may need to be delayed somewhat. He addressed next steps including review and hearings before taking the matter to Council for final approval.

Chair Hillgren reported that Commissioners Ameri and Myers sit on the General Plan/LCP Implementation Committee and commented positively on the presentation.

In response to Commissioner Ameri, Mr. Alford reported that the Committee meets monthly and noted that other than the original schedule, there may be three (3) or four (4) additional meetings required. There may be a hiatus while staff works with the Coastal Commission regarding the Implementation Plan. He foresaw continuing with monthly meetings until the end of 2014.

Vice Chair Tucker commented on the role of the Committee and staff in terms of review by the Planning Commission and City Council.

Deputy Community Development Director Wisneski commented on the role of the Planning Commission and possible issues to be addressed.

Vice Chair Tucker commented on the need to know the issues of contention prior to review by the Planning Commission.

Planning Manager Alford stated this is not an "all or nothing" situation noting that there may be issues where agreements cannot be reached. He addressed the possibility of segmentation; deferring certain areas and getting the bulk of the City, certified. The document will not be duplicative of the Zoning Code but will deal with only those areas in the Coastal Zone.

Assistant City Attorney Leonie Mulvihill reported that the Zoning Code applies City-wide and that certain developments, requiring a Coastal Development permit will have a second layer in terms of the Implementation Plan.

Planning Manager Alford noted that the Implementation Plan will reflect the Zoning Code but is not a component of it.

Secretary Kramer indicated his support for the redefining of boundaries to avoid bifurcation of properties.

Mr. Alford noted there are limited parameters in terms of how far a boundary can be redefined. He addressed potential issues of contention including bluffs and canyons, tidelands areas, and Environmentally Sensitive Habitat Areas (ESHAs).

Secretary Kramer noted that parts of the Newport Center are in the Coastal Zone and others are not and suggested this is the time to question some of the original assumptions made in defining those boundaries. He added that the City should try to minimize the Coastal Zone.

Chair Hillgren commented on challenges in terms of dealing with Coastal Commission staff.

City Attorney Mulvihill added that when the Coastal Act was adopted, it legislatively established the Coastal Zone. Coastal Commission staff has held strongly to the established boundaries and she noted that when meeting with them, City staff pointed out places where it did not make sense. She added that they will consider certain deviations under certain specified circumstances. She agreed that part of the process will involve trying to have a workable document. But they have not been completely receptive.

Discussion followed regarding Coastal Commission jurisdiction and the City retaining permit authority.

City Attorney Mulvihill stated she expects a long and difficult conversation relative to the tidelands. She noted that the tidelands are publicly accessible and that the City provides for public access when approving development. That puts the City in a good position relative to retaining jurisdiction.

It was noted that the City will host an upcoming Coastal Commission meeting on November 13, 14, and 15, 2013.

Vice Chair Tucker suggested that may be a good opportunity to discuss Newport Center with them. He addressed the concept of ESHAs and related standards. He commented on the predominant line of development and streamlining and felt that the issues need clarity.

Chair Hillgren opened public comments.

Jim Mosher commented on the Coastal Zone boundaries and felt it is a question of authority and noted that the Coastal Commission is subject to the State Legislature and may not have the authority to make changes. He addressed categorical exclusions relative to demolition and construction of single- and two-family residences and requested clarification on the matter.

Mr. Alford reported that categorical exclusions orders disappear upon certification but that it is staff's intent for them to continue beyond certification.

Chair Hillgren closed public comments.

Discussion followed regarding the process for providing and moving recommendations forward and the possibility of having staff provide updates to the Planning Commission.

Chair Hillgren stated he would be happy to take back specific recommendations to the Committee.

Deputy Community Development Director Wisneski noted opportunities for providing input to the Committee.

Discussion followed regarding the difficulty in reaching agreements in terms of an Implementation Plan. It was noted that the matter takes a lot of staff time, that there are challenges with the Coastal Commission staff and that the process can be frustrating.

Secretary Kramer expressed an interest in making sure that important issues are addressed.

It was noted that the Planning Commission will have a chance to vote on the matter.

## **IX. STAFF AND COMMISSIONER ITEMS**

### **ITEM NO. 4 MOTION FOR RECONSIDERATION - None**

### **ITEM NO. 5 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

#### **Committee Updates:**

#### **1. Land Use Element Amendment Advisory Committee**

Deputy Community Development Director Wisneski reported that the Land Use Element Amendment Advisory Committee met earlier this week and discussed the policies of the Land Use Element.

It was noted that several comments were received regarding policies and that the next meeting will be held on December 3, 2013, to review the policies in detail.

### **ITEM NO. 6 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT**

Vice Chair Tucker requested placing consideration of changing the meeting time for the December 19, 2013, meeting of the Planning Commission, on the next agenda.

### **ITEM NO. 7 REQUESTS FOR EXCUSED ABSENCES**

Commissioner Lawler and Secretary Kramer requested to be excused from the November 21, 2013, Planning Commission meeting.

**X. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:51 p.m.

The agenda for the Regular Meeting was posted on November 1, 2013, at 4:00 p.m., in the binder and on the City Hall Electronic Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

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Bradley Hillgren, Chair

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Kory Kramer, Secretary